

TRANSMITTAL SLIP		
TO: <input type="text"/>		
ROOM NO. <input type="text"/>		
REMARKS: <input type="text"/> <i>Per our discussion This evening, attached are copies of our papers dealing with Social Security Act amendments and proposed Execution Order.</i> <input type="text"/>		
FROM: <input type="text"/>		
ROOM NO.	BUILDING	EXTENSION

22 April 1975

MEMORANDUM FOR THE RECORD

SUBJECT: Social Services Amendments of 1974 -- Attachment
of Federal Remuneration for Certain Purposes

1. Public Law 93-647 (88 Stat. 2337, January 4, 1957), known as the Social Services Amendments of 1974, amends the Social Security Act (42 U.S.C.A. 301 et seq.) and establishes a consolidated program of Federal financial assistance to encourage provision of social services by the states. The Act also provides for a tax credit for low-income families (work bonus) and the child support program. The latter is designed to assure an effective program of child support. It leaves the basic responsibility for child support and for the establishment of paternity to the states, but provides for a more active role on the part of the Federal Government in monitoring and evaluating state programs, in providing technical assistance, and in certain instances, in undertaking to give direct assistance to the states in locating absent parents and obtaining support payments from them.

2. The Act amends Title IV of the Social Security Act by adding several new sections, including one, section 459, which provides that:

Notwithstanding any other provision of law, effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States (including any agency or instrumentality thereof and any wholly owned Federal corporation) to any individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the United States were a private person, to legal process brought for the enforcement, against such individual of his legal obligations to provide child support or make alimony payments.

3. According to the legislative history of the Act, the purpose of this section is to permit the wages of Federal employees, civilian and military, to be subject to garnishment for child support and alimony payments. In addition, annuities and other payments under Federal programs in which entitlement is based on employment are also subject to garnishment for these limited purposes. The provision is applicable whether or not the person on whose behalf the garnishment proceeding is brought is on the welfare rolls. The amendment overrides provisions in various Federal social insurance or retirement laws which prohibit garnishment.

4. On 21 April 1975, I spoke with Mr. Daniel Shapiro, Office of the General Counsel, Civil Service Commission (CSC) concerning the garnishment provision of the Act. It appears that Mr. Shapiro's sole responsibility is to handle the impact of the new law on the Commission. Mr. Shapiro explained that within the next few weeks the Commission will issue a Federal Personnel Manual (FPM) Letter or Bulletin concerning the garnishment provision of the Act. He classified the issuance as "rather meaningless" and only designed to "calm" departmental personnel officers. The question of how the Government will respond and what documentation, etc. will be required to effect garnishment is being worked out by a Government-wide committee which is chaired by the Chief of the General Claims Section, Civil Division, Department of Justice, and composed of Mr. Shapiro, attorneys from HEW, DOD and Treasury and a representative from OMB. The committee is trying to devise a Government-wide administrative process for handling what apparently already is a flood of requests for garnishment. (Mr. Shapiro indicated he has already received "hundreds" of letters and telephone calls concerning garnishment.) The position of the Department of Justice is that it wishes to avoid involving the U.S. Attorneys in these cases, and therefore, wishes to establish a uniform system in the Government for handling them.

5. There are a number of points which should be noted before stating what the interim procedures are for garnishment. (It should be stressed that these are interim procedures in effect until the Committee mentioned hereinabove works out Government-wide policies and until we in the Agency can adapt these policies to our unique problems.) First of all, garnishment is a statutory proceeding whereby a person's property or money in the possession of, under control of, or owing by another are applied to payment of the former's debt to a third person by proper statutory process against debtor and garnishee. P.L. 93-647 does not create a separate Federal

garnishment law but subjects Federal employees to state laws of garnishment. Therefore, garnishment is known by different terms (attachment, employer action, etc.), and each state has a somewhat different body of law with regard to garnishment. This results in different rules for what income may be garnished and what legal process must be followed to obtain a garnishment order. For example, some state laws exclude annuities and pensions from garnishment; thus, the annuity of a CIARDS or CSR annuitant may not be garnished in these states.

6. Another point to note is that garnishment is not an administrative remedy but only results from legal process. A letter from a lawyer or an allegedly aggrieved individual stating that so-and-so is in arrears in the payment of child support and/or alimony does not compel the Government (employer) to garnish wages or an annuity. The garnishment action must be initiated by the aggrieved party and not by a state. (If a state seeks to garnish a Federal employee's salary or a retired or disabled individual's annuity it cannot proceed under section 459 but it must proceed under section 460 of the Act. The regulations pertaining to this section apparently will be issued by HEW.)

7. Under the interim procedures established by the Commission, the Commission will garnish a salary or an annuity and send a separate check to the aggrieved, provided it receives a certified copy of the court order of garnishment, a certified copy of the underlying agreement ordering alimony and/or child support, and a certificate (under oath) from the court issuing the garnishment order or the aggrieved that the aggrieved is entitled to the enforcement of the alimony/child support order immediately. (According to Mr. Shapiro, it may take as long as six weeks after the General Counsel's Office has reviewed and approved the documentation for the Commission's finance office to begin to send checks to the garnishor.)

8. Mr. Shapiro concluded our conversation on 21 April by stating he would keep me informed on developments in this area. He suggested the undersigned contact the Department of Justice to see if it will send us a copy of its draft regulation in which it attempts to explain how to deal with the issue of garnishment.

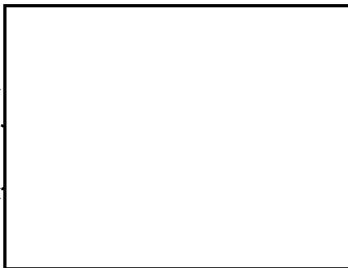
9. The undersigned recommends that all requests for garnishment, whether they be letters from lawyers or individuals or any court documents, be sent to this Office for our review and comments. The undersigned also recommends that until final procedures are established by DOJ and can be adapted to this Agency's needs, that we follow the procedure set forth in Paragraph 7, above. The undersigned will be in contact with DOJ.

STAT



Assistant General Counsel

cc: C/CCS, Attn:
D/Security, A
D/Personnel,
D/Finance, At



OGC: AEG: cap
Original - OGC Subj: PAY
✓ AEG Signer
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OGC 75-2193

11 June 1975

MEMORANDUM FOR: Don Massey, Assistant Legislative Counsel

SUBJECT : Proposed Executive Order No. 11030 --
Delegation of Authority, etc.

1. The proposed Executive Order would delegate authority to the Secretary of Defense and the Civil Service Commission (CSC) to issue regulations implementing the Order and section 459 of the Social Security Act, which makes the Government amenable to garnishment for child support and alimony obligations of its employees, armed forces personnel and civilian and military annuitants.

2. While there might be some advantages in obtaining authority in the proposed Executive Order for the Agency to issue its own regulations in this matter, independent of the CSC, we believe the disadvantages outweigh the advantages. The Office of Management and Budget may not support our request for authority independent of the rest of the Government. Second, even if we did obtain such authority, we would "stick out like a sore thumb" in the Executive order and perhaps encourage a deluge of garnishment requests, etc. before we had an opportunity to write our regulations and, as we would probably have to do, publish them in the Federal Register. Third, we are in contact with the Chairman of the Ad Hoc Interdepartmental Committee on the Implementation of Section 459 (who is the Chief of the General Claims Section, Civil Division, Department of Justice) and the CSC's Office of General Counsel, and we suggest that any special provisions we may need to protect "cover" can probably best be obtained in a low-key approach to the Commission, which in the past has been understanding of our somewhat unique problems.

*Doesn't now look like
CSC will be issuing regulation
but may be OMB!*

3. The Chairman of the Ad Hoc Committee is sending this Office a copy of the proposed regulations for our review and comments. He also informed the undersigned that the Department of Justice will probably seek additional legislation to "clarify" the congressional intent of section 459. For example, right now there are states which through their garnishment proceedings can take an individual's full salary for child support/alimony. There are obvious sound policy reasons why the Government does not want this to happen to its employees. Hopefully, Congress will place a limit on the per cent of salary which may be garnished and will allow an administrative remedy to be established (and exhausted) in lieu of the present situation which in a sense forces litigation. A paper written by the undersigned in late April 1975 concerning section 459 is attached for your information.

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4. We have no legal objection to the proposed Executive Order.

Assistant General Counsel

Attachment

cc: C/CCS, Attn
D/Security,
D/Personnel
D/Finance, A

6/3/75
OGL 75-2070



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

GENERAL COUNSEL

1166
MAY 75-#1166
May 28, 1975

Honorable William E. Colby
Director
Central Intelligence
Agency
Washington, D. C. 20505

Dear Mr. Colby:

Herewith, in accordance with the provisions of Executive Order No. 11030, as amended, is a proposed Executive order entitled "Delegation of Authority to Issue Regulations With Respect to Section 459 of the Social Security Act and the Support Obligation of Certain Employees of the United States and Members of Its Armed Forces."

This proposed Order, along with the enclosed transmittal letter, was submitted by the Chairman, Ad hoc interdepartmental committee on the implementation of Section 459 of Re Social Security Act.

On behalf of the Director of the Office of Management and Budget, I would appreciate receiving your comments concerning this Executive order. Comments or inquiries may be submitted by telephone to Mr. Ronald A. Kienlen (395-5600; IDS 103-5600). I will assume that you have no objection to the issuance of this proposed Order if your comments have not been received by Wednesday, June 18, 1975.

Sincerely,

for *William M. Nichols*
Calvin J. Collier
General Counsel

Enclosures



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

May 15, 1975

Address Reply to the
Division Indicated
and Refer to Initials and Number

RC:ls
137-012
77-012

Hon. William Nichols
Deputy General Counsel
Office of Management and Budget
Room 464 Executive Office Bldg.
Washington, D. C. 20503

Re: Executive Order implementing recent legis-
lation providing for garnishment of
"remuneration for employment" of Federal
employees, servicemen and retirees.

Dear Mr. Nichols:

Pursuant to the telephone conversation between you and Mr. Irving Jaffe, Acting Assistant Attorney General for the Civil Division of the Department of Justice, I enclose a copy of a draft Executive Order for your consideration and for appropriate clearance.

As you know, Section 101(a) of Public Law 93-647 added a new section 459 to the Social Security Act (42 U.S.C. 659) making the Government amenable to garnishment for child support and alimony obligations of its employees and service personnel. Enactment of this provision was unexpected so that no advance preparations were made. The language of the section is so cryptic that there were bound to be many problems with the legislation.

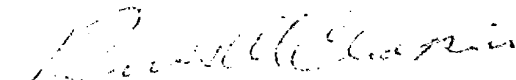
Agency responses to this legislation are likely to vary widely and there has been great uncertainty on the part of lawyers in the private sector over how to proceed. Thus there is a need for regulations to implement this new legislation and to standardize the response of the numerous agencies in the Executive Branch which are subject to the legislation. Issuance of an Executive Order to authorize the promulgation of regulations is a necessary first step toward the proper implementation of this legislation.



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The attached proposed Executive Order is the draft which Mr. Jaffe discussed with you. If I can be of any assistance at any time please let me know. I can be reached on 739-3322. Thanks!

Sincerely,



RUSSELL CHAPIN

Chairman, Ad hoc interdepartmental
committee on the implementation of
section 459 of Re Social Security Act

Attachment

5-14-75 draft

EXECUTIVE ORDER _____

DELEGATION OF AUTHORITY TO ISSUE REGULATIONS WITH
RESPECT TO SECTION 459 OF THE SOCIAL SECURITY ACT
AND THE SUPPORT OBLIGATION OF CERTAIN EMPLOYEES OF
THE UNITED STATES AND MEMBERS OF ITS ARMED FORCES

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, sections 5527 and 7301 of title 5 of the United States Code, and as President of the United States and Commander in Chief of its Armed Forces, it is hereby ordered as follows:

Section 1. The Secretary of Defense is hereby authorized and empowered, without the approval, ratification, or other action of the President, to issue regulations implementing this Order and section 459 of the Social Security Act (42 U.S.C. 659) as to members and retired members of the Armed Services of the United States and the Federal agencies paying their remuneration for employment, as that term is used in the statute. For the purpose of this Order and the implementing regulations the Armed Services shall include the Coast Guard.

Section 2. The Civil Service Commission is hereby authorized and empowered, without the approval, ratification or other action of the President, to issue regulations implementing this Order and section 459 of the Social Security Act as to all other individuals receiving remuneration for employment from any agency, wholly-owned Federal corporation, or independent commission or establishment of the Federal Government of any kind, including the Postal Service, and as to the Federal agencies making payment of such remuneration for employment. Individuals covered

- 2 -

by section 1 of this Order and those receiving remuneration for employment directly from the Legislative or Judicial Branches of the Government shall be excluded from the coverage of the Civil Service Commission regulations.

Section 3. The regulations authorized by this Order shall establish procedures to facilitate the payment of valid obligations properly asserted pursuant to section 459 of the Social Security Act and the regulations and to assure, to the extent practicable, that the United States does not incur dual liability or make double payments. Such regulations shall authorize and encourage the execution of allotments to meet the family support obligations of all individuals covered by this Order and shall enunciate standards of conduct respecting the support obligation of individuals subject to this Order who are currently employed by the United States or who are currently members of its Armed Services.

GERALD R. FORD